

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.7152 OF 2008

ORDER:

The petitioner seeks a writ of mandamus declaring the selection of 4th respondent as dealer for Warangal District in pursuance of the notification vide letter No.RINL/VSP/Mktg./RO(AR)/DLDS/2007-08/05, dated 14.12.2007 of the 2nd respondent as illegal, malafide, biased, violative of Article 14 of the Constitution of India and contrary to the guidelines of the 1st respondent and consequently, set aside the dealership of the 4th respondent and direct the respondents 1 to 3 to award dealership to the petitioner for Warangal District.

2. (a) Petitioner's case, in a nutshell, is that the respondent organization is a public sector undertaking of the Central Government, known as 'Rashtriya Ispat Nigam Limited', represented by its Chairman and Managing Director, Visakhapatnam Steel Plant, Visakhapatnam. The 2nd respondent issued notification inviting applications for appointment of District Level Dealership, vide letter No.RINL/VSP/Mktg./RO(AR)/2007-08/05, dated 14.12.2007, for sale of 50 MT/Month in TMT Rebars and/or structural of the respondent organization. In the said notification, Warangal District is also included. Hence, the petitioner, who belongs to Schedule Tribe – Yerukala Community, submitted

her application since in the said notification it is mentioned that SC/ST and OBC category will have preference in appointments over general category. The petitioner applied through a printed proforma application for the dealership of Warangal District. As per notification, the applicant shall have immovable property i.e., a godown and therefore, the petitioner entered into a lease agreement with third person. Apart from it, the petitioner owns a large commercial space godown at Perukawada, Warangal and she also has immovable property to an extent of 1000 square feet, which is sufficient for office/sales counter purpose.

(b) The further contention of the petitioner is that the 1st respondent issued guidelines for awarding District Level Dealerships, as per which, the respondent given evaluation and assigning of points under different heads and as per 5(B) of the guidelines, which is in respect of infrastructural facilities, two points were earmarked for limited space with covered or open area in town and under 6(B), one point for own weigh scale was earmarked. Apart from that, for having sufficient space for office/warehouse, one point is earmarked. Similarly, for location of the office/warehouse from the point of visibility, one point is earmarked and for accessibility of commercial vehicle to the office/warehouse, one point is earmarked. The petitioner fulfilled all the above parameters, which would cumulatively give 5 points to her. However, to

the surprise of the petitioner, the respondent authorities have given dealership to 4th respondent, though he did not fulfill the required parameters as he does not own immovable property located in the commercial and business area. Petitioner submits that she belongs to schedule tribe and she should have been given preference over 4th respondent.

(c) The respondent organization being an instrumentality of the State should have implemented the policies in the direction of women empowerment and entrepreneurship, however, the respondents failed in that regard.

Hence, the writ petition.

3. The respondents 1 to 3 filed counter opposing the writ petition. The counter averments are as follows:

(a) 1st respondent issued an advertisement dated 14.12.2007 for appointment of District Level Dealers for sale of its products. The advertisement specifies that the applicants belonging to SC, ST and OBC will have preference in appointment as dealers, subject to fulfilment of eligibility criteria. However, no specific reservation is provided in appointment of District Level Dealers. The policy for appointment of dealers provides for minimum qualifying score of 4 points out of 20 points for all categories. All the applicants who qualified by securing the prescribed 4 points

will be considered for appointment in the following order of preference irrespective of the score.

- I) SC/ST
- II) OBC
- III) General

If there are two qualified applicants in a particular category, the applicant with highest points will be preferred. In the case of two applicants within the same category securing equal points the applicant having higher turnover will be preferred.

(b) The policy provides for appointment of a committee of three officers to evaluate the applications.

(c) The petitioner, in response to the advertisement, submitted her application on 05.01.2008. The breakup of eight applications received for dealership at Warangal is as follows:

ST Category	One application
SC Category	Two applications
OBC Category	Four applications
General Category	One application

Since the applicants in SC and ST category could not secure minimum qualifying 4 points, the committee has selected the 4th respondent, who secured the highest points

among the OBC category applicants. The 4th respondent has secured “18” out of “20” points.

(d) The contention of the petitioner that she has enclosed a lease deed for warehouse is not correct. The advertisement for dealership specify that the applications can be obtained till 14.30 Hrs on 05.01.2008 and the applications can be submitted till 15.00 Hrs and they will be opened at 15.30 Hrs on the same day. In the application, the petitioner mentioned that she has rented premises bearing D.No.16-5-279, Perikawada, Warangal, with an area of 2000 square feet and a storage capacity of 100 MT. Having claimed it to be rented premises, the petitioner failed to produce any proof of the alleged lease.

(e) On 21.03.2008, subsequent to the inspection of the facilities offered by the applicants at Warangal, on 17th and 18th March, 2008, the petitioner submitted Photostat copies of the lease deed of the premises proposed to be used as warehouse and also property tax receipt issued by the Municipal Corporation, Warangal, for the premises shown in the application as the proposed office/sales counter. The petitioner has not submitted the above documents along with the application. Hence, the allegation that the lease agreement is enclosed with the application is false. A perusal of the lease agreement would show that it was an unregistered document providing for a lease period of three

years. The document further showed that stamp paper on which it was prepared was purchased on 05.01.2008, which shows that the document was prepared subsequent to the submission of the application. Having failed to submit the lease agreement along with the application in proof of her possession, the petitioner, during the course of inspection by the committee, has shown a premises with different door number and not as mentioned in the application. When enquired about the difference in the door number, the petitioner could not give any satisfactory reply. In the absence of a godown, the petitioner could not be awarded any points.

(f) With regard to the office/sale counter required as part of infrastructural facilities, the petitioner mentioned House No.17-3-118/1, Kareimabad, Warangal. On inspection of the said premises, it was noticed that the same was located in a residential slum area and not suitable for doing business. Hence, no points could be awarded, in that regard, to the petitioner.

(g) In the application, the petitioner stated about investment of Rs.10,00,000/- (rupees ten lakhs only) as equity capital but could not submit any supporting documents in proof of such investment or financial capability. In the application, the petitioner left the financial data and turnover columns blank indicating thereby that she does not

possess any experience in business. The petitioner, hence, could not be awarded any points in that regard.

(h) The relevant columns in the applications relating to sales turnover of the steel products and other products was kept blank. The information relating to the nature of business being undertaken and type of products handled was left blank, thereby showing that the petitioner had no experience. The petitioner could not produce any proof of registration with sales tax and central excise authorities. In the application, the petitioner stated to have applied for the same, however, no proof was submitted.

(i) The only area where the petitioner secured point was by filling up the basic data of application for which one point was awarded to her.

(j) In view of the above facts and circumstances, the evaluating committee could not assign points in any one of the areas relating to financial data, infrastructural facilities, experience in selling ability and market reputation. Hence, for these reasons, the petitioner could not secure even the minimum 4 points. Thus, the contention of the petitioner that she fulfilled all the parameters which would fetch her to 5 points is not correct. On the other hand, the 4th respondent has secured the highest points among the applicants in OBC category and hence, his name was recommended for

appointment as District Level Dealer. It is further mentioned that the business premises shown by the 4th respondent for his sales office and warehouse are different from the premises shown by one M/s.Om Sai Steels. As the said 'Om Sai Steels' could not secure minimum points and disqualified, it cannot be said that any fraud was played on the 1st respondent. The respondents, thus, prayed to dismiss the writ petition.

4. Heard.

5. It is the contention of learned counsel for petitioner that the petitioner belongs to Schedule Tribe community and she submitted her application fulfilling all the parameters shown in the advertisement and as such, she should have been given preference over the 4th respondent. However, the respondent authorities, by sidelining her, gave preference to the 4th respondent and allotted the dealership to him for Warangal District, which is unlawful.

6. On the other hand, learned counsel for respondents 1 to 3 would submit that the petitioner could not fulfill any of the parameters given in the notification and she could get only one point for filling up the application and except that she could not fulfil any other parameters. Therefore, she could not be selected. On the other hand, the 4th respondent fulfilled the required parameters and he belongs to OBC

category and hence, he was selected and the writ petition is thus not maintainable. The counsel further submits that the period of contract was initially for two years, which can be extended by one year and as the said period was over long back, on that count also, the writ petition has become infructuous.

7. I gave anxious consideration to the respective contentions.

8. The record shows that the writ petitioner could not fulfill the required parameters. The material papers produced by the respondents along with counter contain the revised evaluation criteria and general guidelines for scrutinizing the application forms under the DLDS by the Committee consists of Senior Branch Managers/BM/BFM/Representative of Regional Office. As per the said criteria, one point is earmarked for all entries filled up in the application. The petitioner is given one point in that regard.

a) Under the head 'Financial Data' of the application, 3 points are earmarked if the applicant was in any business for all three specified years; 2 points if the application was in any business for any two of the specified years; and one point if applicant is in any business for any of the specified year. Apart from it, one additional point is earmarked if the applicant was having experience in steel business and

another one additional point is earmarked in case the applicant has dealt with VSP products. So far as the financial data is concerned, a perusal of the application, a copy of which is filed by the petitioner along with the writ petition would show that against the financial data, the petitioner mentioned the year 2008 as the year of commencement of business without mentioning any further particulars relating to the nature of the business and the extent of turnover etc., details. Therefore, the respondent authorities have not assigned any points to her in that regard. Hence, such an evaluation cannot be found fault with.

b) Under the heading 'infrastructural facilities', the evaluation is to the effect that 3 points are allocated for applicant's owning a space with covered or open area in the town; 2 points for rented space with covered or open area in town; and 1 point for own space with covered or open area outside town. Apart from it, one additional point is earmarked for computerized/automated facilities. So far as this parameter is concerned, in Para III of the application under heading 'Infrastructure Facilities', the applicant mentioned as owning 1000 square feet with the address H.No.17-3-118/1, Kareimabad, Warangal. The observation of the respondents in that regard is that on inspection of the said premises, the respondent authorities found that the said area was located in a residential slum area and not at all

suitable for doing business and hence, on that count, no points could be awarded to the petitioner. This fact was not controverted by the petitioner by filing additional affidavit or producing some photographs of the locality in her endeavor to show that the said area is conducive for doing business. Hence, the opinion of the respondents cannot be found fault.

c) It is to be noted that the petitioner in her application under the heading 'Warehouse' mentioned that she obtained a rented warehouse in an extent of 2000 square feet with storage capacity of 100 MT in the locality with address 16-5-279, Perikawada, Warangal. In this regard, the observation of the respondent officers is that though in the application the petitioner have given the above address with regard to the owning of warehouse, the petitioner did not produce any document in proof of the alleged lease of the warehouse and therefore, the credentials of the leasehold ship are doubtful. Only on 21.03.2008 i.e., subsequent to the inspection made by the respondent officers, the petitioner submitted some Photostat copies of the lease deed of the premises proposed to be used as warehouse. The petitioner has not produced such documents along with the application. Moreover, lease deed was an unregistered one, though the lease period was for three years. The respondent officers have not taken into consideration the said lease deed. In this regard also, opinion of the officers cannot be found fault.

9. So, on a conspectus of the respective pleadings and material produced by both sides, it is evident that the petitioner could not fulfill any of the parameters. Therefore, rightly she was not awarded any points except one point for filling up the application. Therefore, she cannot harp any injustice against the decision of the respondents for confirming dealership in favour of 4th respondent. Apart from it, the dealership is only for a maximum period of three years and that period was expired long back. In that view also, the present writ petition has become infructuous.

10. Accordingly, this writ petition is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

05.10.2018
SS

U.DURGA PRASAD RAO, J